

Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Date:

JUL 8 0 1986

*no protest rec'd
9-18-86*

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

7/24/86

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosures: 3

Enclosure I

Information submitted disclosed that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your purposes as set forth in the third article of your Articles of Incorporation are as follows:

Exclusively to receive and administer funds for scientific, education and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954 (or corresponding provision of any future United States Internal Revenue Law). Such purposes shall include the promotion of cultural arts programs for children, the promotion of educational programs for children, both within the context of the philosophy advanced by [REDACTED]. Such exclusive charitable and educational purposes shall also include but not be limited to: the education of people with respect to the aforementioned purposes; the provision of services to people necessary to and in furtherance of the aforementioned purposes; and providing mechanisms through which people may have access to information necessary for the attainment of the aforementioned purposes.

The Corporation may initiate, administer, study, evaluate, research, promote, recommend, publish and disseminate such projects, programs and information as shall be in furtherance of its purposes.

The application for recognition of exemption and correspondence discloses that the organization was formed to help raise funds to expand the [REDACTED] facilities and programs, and to develop links between the school and the [REDACTED] community. The raised funds are to be used to supply the school with educational material, such as computers, library books, and other publications. Programs include an annual children's theatrical production for the school, and a foreign language camp. The information submitted indicates that [REDACTED] is a private institution and is operated as a proprietary endeavor. We can find no evidence that [REDACTED] has established exemption from Federal income tax under section 501(c)(3) or any other section of the Code.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Enclosure I continued

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations states in part that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes....

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Enclosure I continued

██████████.

In order to be exempt, an organization must establish that it is organized for one or more exempt purposes and not operated for the benefit of private interests of its creators or others.

Based on the information submitted, we have concluded that you are not organized for one or more exempt purposes because neither your articles of incorporation nor the laws of the State of ██████████ provide for the distribution of your assets for one or more exempt purposes in the event of dissolution.

We have further concluded that you are not operated for one or more exempt purposes because you are operating for the benefit of the ██████████ which is a proprietary endeavor and not itself exempt under section 501(c)(3) of the Code. Therefore, you are serving the private interests of ██████████ and its creators instead of operating for a public purpose.

Because you have not established that you are organized and operated for exempt purposes, you do not meet the organizational and operational tests specified in the Code and Regulations cited above.

Accordingly, we have concluded that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code and contributions to you are not deductible by donors under section 170 of the Code.